

### **REMARKS**

Applicants appreciate the Examiner's thorough review of the present application, and respectfully request reconsideration in light of the preceding amendments and the following remarks.

Claims 1-5, 7-15, 17-23 are pending in the application. The claims remain unchanged notwithstanding the Examiner's modified art rejections.

The indication of the finality of the outstanding Office Action in paragraph 7 appears to be an oversight, especially in view of the Examiner's decision to make the Office Action non-final in paragraph 5. Applicants will, therefore, treat this action as a non-final action.

The modified art rejections of all pending claims as being obvious over *Belissent* are noted. Applicants respectfully disagree with the Examiner's rejections, for at least the reasons advanced in the previous Amendment, e.g., at page 9 the last paragraph through page 10 the last full paragraph. The previously presented traversing arguments are incorporated by reference herein for the sake of simplicity.

The Examiner's modified rejections are also traversed for the following reasons.

1. In the Response to Arguments section the Examiner argues, regarding Applicants' argument that *Belissent* only throttles incoming traffic, that "*Belissent* uses an SMTP server, which forwards email; there is therefore both incoming and outgoing traffic being treated." Applicants respectfully disagree.

Although it is true that an SMTP server can treat both incoming and outgoing traffic, the *Belissent* throttling technique is disclosed to be applicable only to incoming traffic. A person of ordinary skill in the art would understand that the *Belissent* throttling technique is a defense against DOS (denial of service) attacks, and therefore makes sense only when it is applied to the incoming

traffic (attacks). Therefore, the person of ordinary skill in the art would recognize that the *Belissent* throttling technique is not applicable to outgoing traffic because no defense against the outgoing traffic is required in *Belissent*, and hence, the reference's throttling technique is not relevant to the disclosed embodiments of the claimed invention.

2. The applied reference fails to teach or suggest the feature of claim 1 that throttling behavior is determined on the basis of the number of destination hosts specified in a request. Note, for example, the following limitations of claim 1:

“...receiving a request to send data to a number of other,  
destination hosts;  
comparing the number of destination hosts in the request with the  
value of a parameter;...”

In *Belissent*, a connection request monitor 210 counts the number of requests to connect to a server coming from each requestor (column 5, lines 52 to 55); there is no suggestion in *Belissent* of counting, for each request, the number of destination hosts in the request, unlike the claimed invention.

3. *Belissent* is concerned with connection requests to the server – each such request will only ever have one destination host identified, that of the server. This is true even if the purpose of the request is to send the server a multi-recipient email. A multi-recipient email could be sent to the server either:

- by making a single connection request followed by sending over the resultant connection a list of recipients; or

- by making a respective connection request for each intended email recipient in turn, each request when accepted being followed by sending over the connection thereby established the identity of a respective one of the intended email recipients.

In either case, the or each connection request itself only has one destination, namely the server.

In contrast, claim 1 is concerned with a request for the subject host to send data to a number of “other (destination) hosts” and so cannot be equated to the connection request of *Belissent* which is a request to send data to the (single) server.

4. The Examiner’s attempt to read the *Belissent* teachings on the claimed parameter is improper. According to the Examiner, the “number of connections before the threshold is reached is the parameter.” See, for example, the Office Action at page 3, line 4. Thus, in order to meet the claim limitation of “comparing the number of destination hosts in the request with the value of a parameter,” *Belissent* as interpreted by the Examiner must teach “comparing the number of destination hosts in the request with the --number of connections before the threshold is reached--”. No such teaching is found in the applied reference.

Further, in order to meet the claim limitation of “if the number of destination hosts is greater than the parameter’s value, inhibiting transmission of at least part of the request,” *Belissent* as interpreted by the Examiner must teach “if the number of destination hosts is greater than --the number of connections before the threshold is reached--, inhibiting transmission of at least part of the request.” A person of ordinary skill in the art would understand that the “number of connections before the threshold is reached” increases from 0 to the threshold. Thus, at the beginning of the *Belissent* process as interpreted by the Examiner, the number of destination hosts should always be greater than the initial “number of connections before the threshold is reached,” i.e., 0. In another words, the *Belissent* process as interpreted by the Examiner will immediately begin throttling data transmission as soon as a request is received, and will stop throttling data transmission once the --number of connections before the threshold is reached-- has reached the number of destination hosts. Thus, the *Belissent* process as interpreted by the Examiner will throttle data transmission at a low number (zero or close to zero) of connections

and remove the throttling control at a high number of connections, which completely runs counter to the principle of defense against DOS, i.e., allowing data transmission at a low number of connections and throttling data transmission at a high number of connections.

Finally, in order to meet the limitation of claim 1 that “the parameter’s value being... incremented with the passage of each time interval in which no requests are transmitted,” *Belissent* as interpreted by the Examiner must teach “the --number of connections before the threshold is reached-- being... incremented with the passage of each time interval in which no requests are transmitted.” No such teaching is found in the applied reference. In addition, if no requests are transmitted, i.e., no connections are made, the --number of connections before the threshold is reached-- must remain unchanged, rather than incremented as presently claimed

Therefore, Applicants respectfully submit that the Examiner argument that the “number of connections before the threshold is reached is the parameter” is improper and should be withdrawn.

5. The reference clearly fails teach or suggest the limitation of claim 1 that the “parameter’s value being ... incremented with the passage of each time interval in which no requests are transmitted.” The Examiner’s argument related to this feature appears to be found in the Office Action at the sentence bridging pages 2-3.

First, Applicants note that the Examiner has cited no teaching of *Belissent* in support of the argument.

Second, Applicants respectfully submit that the threshold of *Belissent* is not disclosed to be incremented in the claimed manner, and that the only value that is recalculated in *Belissent* is the wait time which is not compared to the number of destination hosts or requests. These arguments have been presented in the previous Amendment, at page 10, the second and third paragraphs, and have not been responded to in the outstanding Office Action.

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For any of the above reasons, Applicants respectfully submit that independent claim 1 is neither anticipated by nor obvious over *Belissent*.

Independent claims 14 and 19 as well as all dependent claims are believed patentable over the applied art of record for at least one or all of the reasons advanced with respect to claim 1.

Accordingly, Applicants respectfully submit that all claims are now in condition for allowance. Early and favorable indication of allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 08-2025 and please credit any excess fees to such deposit account.

Respectfully submitted,  
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